

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA  
SOUTHWESTERN DIVISION**

Dale Joseph Burke, )  
 )  
Petitioner, )      **ORDER**  
 )  
vs. )  
 )  
Don Redmann, Interim Warden of the )  
North Dakota State Penitentiary, )      Case No. 1:13-cv-073  
 )  
Respondent. )

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The court *sua sponte* orders that Don Redmann, the North Dakota State Penitentiary's (NDSP) interim warden, be substituted as the party respondent in place of Robyn Schmalenberger, the NDSP's former warden. See e.g., West v. Louisiana, 478 F.2d at 1029 (suggesting that the district court could have amended the petition on its own initiative substituting the immediate custodian for the named respondent, which was the State of Louisiana); Crain v. Cooper, No. 1:09-cv-216, 2011 WL 4596112, at \*3 (W.D.N.C. Sept. 30, 2011) (the court on its own amended the petition to name the proper respondent). This case's caption shall be amended accordingly.

**IT IS SO ORDERED.**

Dated this 5th day of March, 2014.

/s/ Charles S. Miller, Jr.  
Charles S. Miller, Jr., Magistrate Judge  
United States District Court